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November 14, 1979

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The Honorable Thomas N. Goodwin  
Arizona State Representative  
House Wing, State Capitol  
Phoenix, AZ 85007

Re: I79-271 (R79-210)

Dear Representative Goodwin:

In your letter of July 18, 1979, you asked for our opinion as to whether employees of the Arizona Drug Control District (District) are entitled to benefit from the recent salary adjustments provided by Chapter 171, Laws 1979, Subdivision 94.

That bill provided that 6% salary adjustments be given to "state officers and employees". It is our opinion that, for purposes of this bill, District personnel are "state employees" and are thus entitled to receive salary adjustments.

In Ariz.Att'yGen.Op. No. 78-44, we noted that there is no general statutory definition of the term "state employee", and proceeded to conclude that District personnel are not in the "state service" as defined in A.R.S. § 41-762. That statement was not meant to say that District employees could not be considered under any circumstances to be state employees. It is entirely possible that District employees can be deemed to be employees of the state without being in the "state service" as defined in A.R.S. § 41-762. Such a determination depends upon the facts and circumstances existing at the time a question arises, and no rigid guidelines can be set down for all situations.

With respect to the appropriations bill, which grants a salary adjustment to "state employees", we find the pertinent facts to be that District personnel are paid out of the state's general fund, they are employed pursuant to statutory authorization and their duties are prescribed by statute. The appropriation, by its terms, covers "state employees", which is a more inclusive term than employees who are in "state service".

The Honorable Thomas N. Goodwin

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In the absence of a clear legislative directive to exclude certain types of state employees, we think the appropriation should be applied to all personnel who can be considered as such.

Sincerely,

*by Steven Hurst*

BOB CORBIN  
Attorney General

BC:LPS:lfc